



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 4017-00
9 June 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149

1. Pursuant to the provisions of reference (a), Petitioner, widow of Subject, filed enclosure (1) with this Board requesting, in effect, that her late husband's naval record be corrected to show that he was retired by reason of physical disability, with a rating of 100%; that he elected coverage under the Survivor Benefit Plan, at the maximum level based on the full amount of his retired pay; and, that he elected a supplemental spouse annuity in the amount of 20 percent of the base amount. In addition, Petitioner requested correction of her husband's record to show he was authorized issuance of a supplemental life insurance policy from the Department of Veterans Affairs (VA) in the amount of \$30,000.00.

2. The Board, consisting of Messrs. [REDACTED] and [REDACTED], reviewed Petitioner's allegations of error and injustice on 9 June 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Subject was evaluated by a medical board on 14 December 1999 and 19 January 2000, and given diagnoses of motor neuron disease (amyotrophic lateral sclerosis), and right carpal tunnel syndrome. The medical board recommended that Subject be evaluated by the Physical Evaluation Board (PEB), and the recommendation was approved on 4 February 2000. The President, PEB, returned the medical board report to the convening authority on 8 March 2000 to complete a Comprehensive Clinical Evaluation Program evaluation in the

event Subject had been in South West Asia at any time during the preceding ten years. Subject died on 16 May 2000, without final action being taken on his case by the PEB.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Subject's disability evaluation should have been completed prior to his death. Accordingly, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Subject's naval record be corrected to show that on 14 May 2000, while he was entitled to receive basic pay, the Secretary of the Navy found him unfit to perform the duties of his office by reason of physical disability due to motor neuron disease (amyotrophic lateral sclerosis), which was incurred while Subject was entitled to receive basic pay; that the disability is not due to intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; that Subject completed over eight years of active service; that the disability is considered to be ratable at 100% in accordance with the Standard Schedule for Rating Disabilities in use by the Department of Veterans Affairs at the time the Secretary found Petitioner unfit, Code Number 8017; and that as accepted medical principles indicate the disability is of a permanent nature, the Secretary directed that Petitioner be permanently retired by reason of physical disability effective 15 May 2000 pursuant to 10 U.S. Code 1201.

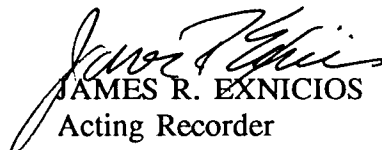
b. That Subject's naval record be further corrected to show that, under the provisions of 10 U.S. Code, chapter 73, subchapter II, Survivor Benefit Plan (SBP), he elected maximum coverage for spouse and children based on the full amount of his monthly retired pay, and that he elected supplemental coverage for his spouse in an amount equal to 20 percent of the base amount under the SBP.

c. That Subject's naval record be further corrected to show that subsequent to his retirement but prior to his death, he applied to the Department of Veterans Affairs for \$10,000.00 life insurance coverage, with Petitioner as beneficiary, under the service-disabled veterans insurance program; that he applied for a waiver of insurance premiums as a totally disabled veteran; and that as a totally disabled veteran, he was authorized additional life insurance coverage in the amount of \$20,000.00.

d. That a copy of this Report of Proceedings be filed in Petitioner's naval record.


4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
By direction